

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

ANNIE ODOM AND JAMES ODOM,

Plaintiffs,

vs.

JEREMY WHITE AND

JEFFREY WHITE,

Defendants.

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Civil Action No.
05-00005-BH-B

ORDER

This action is before the Court on Defendants' Motion to Compel Discovery Responses (Doc. 22). In their motion, Defendants assert that Plaintiffs were served with Defendants' First Set of Interrogatories and First Request for the Production of Documents on May 17, 2005, and that Plaintiffs have failed to provide responses despite requests from Defendants' counsel. In an Order dated August 3, 2005 (Doc. 24), the Court directed Plaintiffs to file a response to Defendants' motion by August 11, 2005. To date, Plaintiffs have filed no response, and have not sought an extension of time in which to do so.

Rule 37 of the Federal Rules of Civil Procedure provides that the Court may compel disclosure and may enter sanctions against individuals who fail to make disclosures or participate in discovery. The rule provides, in pertinent part, that:

If the motion [to compel] is granted or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney's fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response, or objection was substantially justified, or that other circumstances make an award of expenses unjust.

Fed. R. Civ. P. 37(a)(4)(A). In the case sub judice, Plaintiffs have failed to respond to Defendants' motion, let alone offer any evidence to controvert the assertions contained in Defendants' motion. Accordingly, based upon the undisputed assertions contained in Defendants' motion, the Court **GRANTS** Defendants' motion, and **DIRECTS** Plaintiffs to fully respond to Defendants' First Set of Interrogatories and First Request for the Production of Documents by **September 23, 2005**.

Additionally, Plaintiffs and their counsel are **ORDERED** to show cause, on or before **September 23, 2005**, why this Court should not impose sanctions pursuant to Fed. R. Civ. P. 37 (a)(4)(A).

DONE this **13th** day of **September, 2005**.

S/ Sonja F. Bivins
UNITED STATES MAGISTRATE JUDGE